and contains information relating to sampling of the particular software program by the user.

REMARKS

1. Information Disclosure Statement

Applicants' counsel apologizes for the omission of copies of certain references in the previously submitted Information Disclosure Statement. An Information Disclosure Statement and PTO form 1449 containing those references and copies of the same have been enclosed for consideration by the Examiner. The enclosed Information Disclosure Statement is substantively duplicative of the one previously submitted.

2. Section 102 and 103 Rejections

U.S. Patent No. 5,341,429 issued to Stringer et al. ("Stringer '429 patent") does not anticipate or render obvious amended claims 1, 13, 14 and 26, and does not anticipate or render obvious the new claim 27. The Stringer '429 patent discloses a system for securing electronic data while allowing limited use of the data. The Stringer '429 patent teaches separating a portion of the electronic data, such as a computer program, from the original data. This separation results in a separated data portion and a residual data portion. A module is provided to supervise recombination of the separated data with the residual data to allow time limited and/or function limited access to the original data. A transaction module allows permanent recombination on a permanent storage medium when a user

purchases the data and receives a special code to enable the trial version of the data.

The Stringer '429 patent does not teach or suggest the use of a file having an internal configuration of a separate storage medium and the use of a software driver especially configured for accessing the file, as in the amended independent claims 1 and 14. Moreover, there is no suggestion or teaching to configure the files in the system disclosed in the Stringer '429 patent in this manner. The Stringer '429 patent also does not teach maintaining the electronic data in an undivided locked state, as recited in amended claims 13 and 26 and new claim 27. Rather, the Stringer '429 patent teaches away from this by disclosing the process of separating the electronic data in order to maintain security of the data. In the present invention, the electronic data being sampled is not separated into divided portions. Instead, the electronic data remains together in one image file. As disclosed in the specification of the present application, systems that divide programs for security must tamper with the program which can make the program unstable. In addition, such methods do not work for all applications.

U.S. Patent No. 4,658,093 issued to Hellman ("Hellman '093 patent") does not anticipate or render obvious the amended claims 1, 13, 14 and 26 and the new claim 27. The Hellman '093 patent discloses the use of a software program or other electronic data that is dependent upon a "key". The "key" has been previously hard-coded in permanent memory of a base unit, such as a computer, on which the user desires to access and utilize the software program or other electronic data. Thus, the software program or other electronic data cannot simply be sampled or

purchased electronically by any user because the user must have an appropriate base unit containing the requisite hard-coded "key". In contrast, as recited in amended claims 13 and 26 and new claim 27, the present invention allows sampling and outright purchase of any software program or other electronic data without depending upon specific hard-coded information contained in the permanent memory of a base unit. Moreover, there is no teaching or suggestion to eliminate this hard-coded "key" because the system disclosed in the Hellman '093 patent would be inoperable without such a key and the security of the electronic data could be compromised if the key was provided through software.

The Hellman '093 patent also does not anticipate or render obvious the amended claims 1 and 14. The Hellman '093 patent does not disclose or suggest the use of a file having an internal configuration of a separate storage medium and the use of a software driver especially configured for accessing the file, as in the amended independent claims 1 and 14.

U.S. Patent No. 4,446,519 issued to Thomas ("Thomas '519 patent"), U.S. Patent No. 4,465,901 issued to Best ("Best '901 patent"), U.S. Patent No. 5,109,413 issued to Comerford et al. ("Comerford '413 patent), and U.S. Patent No. 5,388,211 issued to Hornbuckle ("Hornbuckle '211 patent") neither anticipate nor render obvious amended claims 1 and 14 and new claim 27.

The Thomas '519 patent requires the use of an electronic security device ("ESD") that must be electronically connected to a user's computer prior to using any software program. Thus, the software program cannot simply be sampled or purchased electronically from any computer having components capable of processing program code of the software program, as in the

present invention. Rather, in the Thomas '519 invention, the user must also obtain the ESD and operatively connect the ESD to the computer.

The Best '901 patent requires the use of a crypto-microprocessor (CMP) on a circuit board that must be electronically connected to a user's computer prior to using any software program. The CMP is then used to decipher the encrypted software program for execution by the user. Thus, the software program desired by the user cannot simply be sampled or purchased electronically from any computer having components capable of processing the program code of the software program, as in the present invention. Rather, in the Best '901 invention, the user must obtain a CMP and operatively connect the CMP to a computer.

The Comerford '413 invention depends upon a coprocessor, electronically connected to a user's computer, which is physically secured and has at least one decryption key stored in its permanent memory by the vendor. The decryption key is required to decrypt any software program. The software program desired by the user cannot simply be sampled or purchased electronically from any computer having components capable of processing program code of the software program, as in the present invention. Rather, in the Comerford '413 invention, the user must have a coprocessor operatively connected to a computer.

The Hornbuckle '211 patent teaches "rental" of software programs, which is monitored through an external, remote control module ("RCM") operatively connected to a user's computer. The software programs cannot simply be sampled or purchased electronically from any computer having components capable of processing program code of the software programs, as in the

present invention. Rather, in the Hornbuckle '211 invention, the user must obtain an RCM and operatively connect the RCM to a computer.

In all of the cited patents, the Thomas '519 patent, the Best '901 patent, the Comerford '413 patent and the Hornbuckle '211 patent, use of the software programs must be accompanied by particular hardware components. The present invention, however, permits a user to sample any software or other electronic data, before deciding to purchase it, and to purchase such data, if desired, without the need for any additional hardware components. Thus, in the present invention any user having a computer with components capable of processing the computer readable code of electronic data can simply download the electronic data, sample the data, and then purchase any of the data, if desired, without using any hardware components or circuitry other than the particular computer being used. Because additional hardware and circuitry is an integral part of the inventions in the above cited references, there is no suggestion or teaching to eliminate these components. Indeed, the inventions would be inoperable without such components.

Neither the Thomas '519 patent, the Best '901 patent, the Comerford '413 patent, nor the Hornbuckle '211 patent anticipates or renders obvious the amended claims 1 and 14. None of these cited references discloses or suggests the use of a file having an internal configuration of a separate storage medium for storing software programs or other electronic data and the use of a software driver especially configured for accessing the file, as in the amended independent claims 1 and 14. The cited references all depend upon external hardware or some hardware

component added to the user's computer, to authorize access to the software programs or other electronic data. There is no suggestion in the references to use an internal special software driver configured to access the file containing the software programs in a way that maintains the security of the software programs, as in the present invention.

U.S. Patent No. 4,654,799 issued to Ogaki et al. ("Ogaki '799 patent") does not anticipate or render obvious amended claims 1 and 14 and new claim 27 of the present invention. The Ogaki '799 patent discloses a vending system for sampling and distributing electronic data through local vending machines connected to a host system by a dedicated line. The Ogaki '799 invention does not suggest or teach the use of a file having an internal configuration of a separate storage medium and the use of a software driver especially configured for accessing the file, as in the amended independent claims 1 and 14.

The Ogaki '799 patent also does not anticipate or render obvious the new claim 27. The Ogaki '799 patent teaches demonstrating electronic data for sale through the vending machine and recording the electronic data to a desired medium upon purchase by a user. The patent does not teach or suggest sampling data on a computer other than the local vending machine. In contrast, the new claim 27 recites sampling electronic data, such as computer programs, through any computer selected by a user that has components capable of processing computer readable program code of the electronic data.

U.S. Patent No. 5,327,563 issued to Singh ("Singh '563 patent") does not anticipate or render obvious amended claims 1 and 14 and new claim 27. The Singh '563 patent discloses a

system for securing software programs while allowing testing of the programs and for distributing the software programs once purchased. The patent teaches renaming, encrypting and storing an application program onto a hard disk in a user's computer and then creating and storing at least one randomly named file onto the same hard disk. A trial program is also created which can be accessed by the user to test the application program. Security of the application program is provided by checking the absolute disk locations of the renamed, encrypted application program and the random file or files. If any of the files have been moved, the user will not be permitted to run the application program.

The Singh '563 patent does not teach or suggest the use of a file having an internal configuration of a separate storage medium or the use of a software driver especially configured for accessing the file, as in the amended independent claims 1 and 14. In addition, the present invention does not need additional, random files to ensure the security of the electronic data to be sampled, as recited in new claim 27. Rather, in the present invention, access to the electronic data is determined independently of the file in which the electronic data is stored.

Accordingly, it is respectfully submitted that amended claims 1, 13, 14 and 26 and new claim 27 are now allowable for the reasons given in the Office Action. Claims 2-12 depend from claim 1 and claims 15-25 depend from claim 13 and are submitted as also being allowable.

CONCLUSION

In light of the above amendments and arguments, Applicant respectfully submits that all claims remaining in the case are now in proper condition for allowance. Applicant, therefore, respectfully requests a notice of allowance.

Respectfully submitted,

Joel A. Ronning

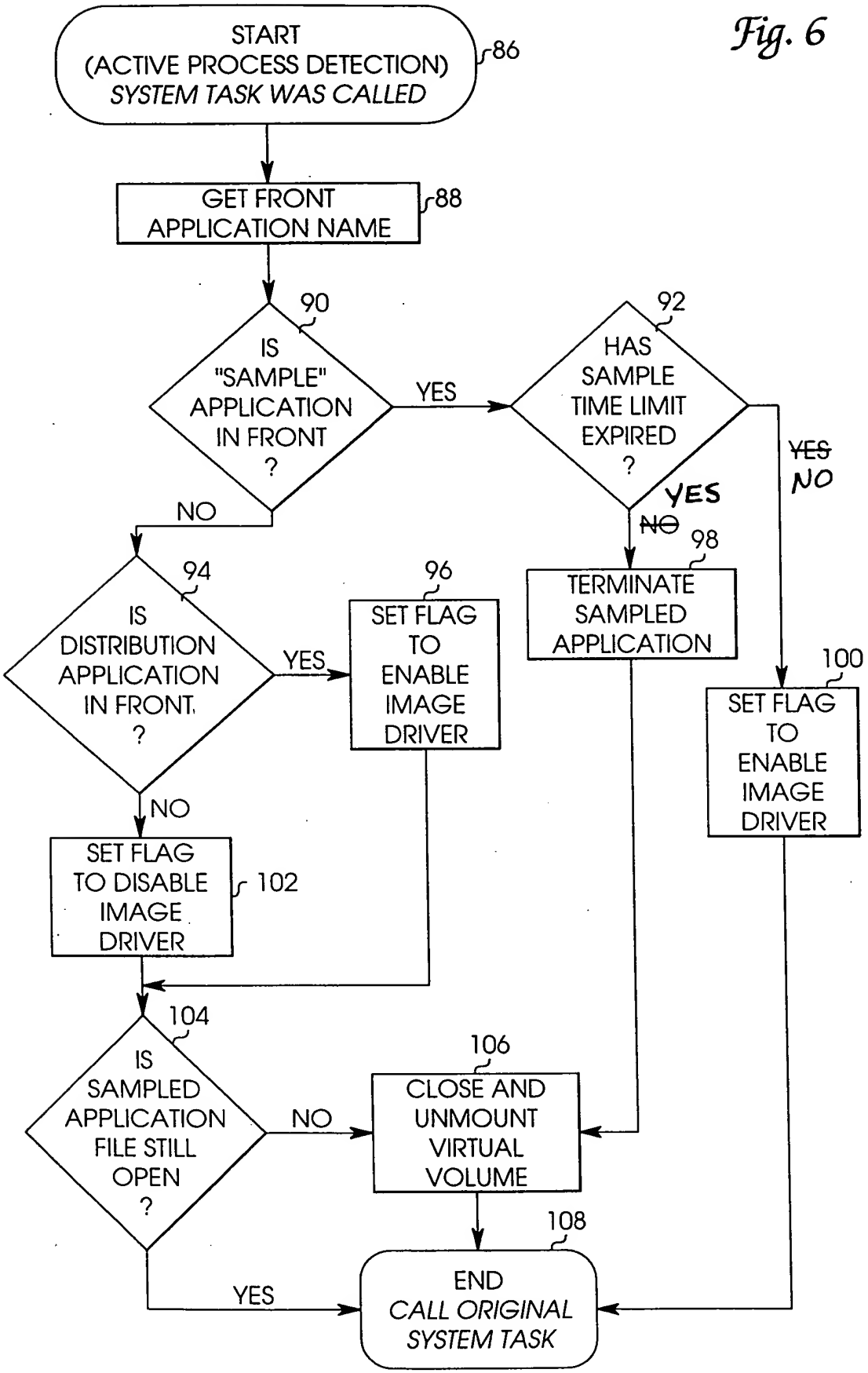
By his Attorney(s),

MERCHANT, GOULD, SMITH, EDELL,
WELTER & SCHMIDT, P.A.
3100 Norwest Center
90 South 7th Street
Minneapolis, Minnesota 55402
(612) 332-5300

Dated: 11/25/96

By: _____
John P. Sumner
Reg. No. 29,114

Fig. 6


START
(ACTIVE PROCESS DETECTION)
SYSTEM TASK WAS CALLED
86
GET FRONT APPLICATION NAME
88
90
IS "SAMPLE" APPLICATION IN FRONT ?
YES
92
HAS SAMPLE TIME LIMIT EXPIRED ?
YES
NO
NO
YES
98
TERMINATE SAMPLED APPLICATION
94
IS DISTRIBUTION APPLICATION IN FRONT ?
YES
96
SET FLAG TO ENABLE IMAGE DRIVER
100
SET FLAG TO ENABLE IMAGE DRIVER
NO
SET FLAG TO DISABLE IMAGE DRIVER
102
104
IS SAMPLED APPLICATION FILE STILL OPEN ?
NO
106
CLOSE AND UNMOUNT VIRTUAL VOLUME
108
YES
END
CALL ORIGINAL SYSTEM TASK